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REFUND OF INCOME AND PROFITS TAXES.

UNITED STATES SENATE.

Subcommittee of the  
Committee on Finance.

Washington, D. C.,  
May 14, 1935.

S. 2044.

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Subcommittee of the  
Committee on Finance.

Washington, D. C.,  
Tuesday, May 14, 1935.

at 2:45 p.m.,

The subcommittee convened in the committee room of the  
Committee on Privileges and Elections, Capitol, Senator Walter  
F. George (Chairman of subcommittee) presiding.

PRESENT: Senators George (Chairman of subcommittee),  
Byrd, Lonergan and Capper.

The subcommittee had under consideration S. 2044, a  
bill for the refund of income and profits taxes erroneously  
collected from the Hartford-Connecticut Trust Company, which  
bill is here set forth in full, as follows:)

Senator George: This meeting is called for the purpose of considering S. 2044, a bill for the refund of income and profits taxes erroneously collected from the Hartford-Connecticut Trust Company. A report has been received from the Acting Secretary of the Treasury on this bill, which is dated March 25, 1935. It seems the single question involved is whether or not the refund should now be made, irrespective of the statute of limitations.

The contention, which the counsel for the trust company will give in more detail, is that the statute is not in fact a bar, for the reason that waivers were signed and filed by the trust company. Of course, that is largely a question of fact. The report from the Acting Secretary of the Treasury will be incorporated in the record at this point.

(The document referred to is here set forth in full, as follows:)

"TREASURY DEPARTMENT

Washington

Mar 25 1935

My dear Mr. Chairman:

"I have your letter of February 27, 1935, transmitting to the Treasury Department for a report, copy of S. 2044 (74th Congress, 1st Session), a bill for the relief of the Hartford-Connecticut Trust Company, a corporation organized and existing under the banking laws of the State of Con-  
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tiout.

"The bill would authorize and direct the Commissioner of Internal Revenue to receive, consider, and determine in accordance with law, but without regard to any statute of limitations, any claim filed within six months from the passage of the Act for the refund of income and profits taxes erroneously collected for the years 1919 to 1923, inclusive.

"Returns were filed by this taxpayer for the years in question in the usual manner. Upon final determination by the Commissioner of Internal Revenue of the tax liability for the years involved, it was found that the taxes for the period July 20 to December 31, 1919 and for the years 1920 and 1923 had been overpaid. Claims for refund were filed by the taxpayer on March 12, 1927, after the expiration of the statutory period within which the full amount of the over-assessment for the years 1919 and 1920 could be allowed. The total amount of the overpayment for the years 1923 was refunded on the basis of the claim which was timely filed for that year. For the years 1921 and 1922 additional taxes were found to be due but these were not assessed and collected due to the bar of the statute of limitations which had operated against the Government.

"The taxpayer instituted suit in the United States Court of Claims for the recovery of the taxes overpaid for the period July 20, 1919 to December 31, 1919, and for the

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year 1920. An officer of the corporation contended that he had on September 8, 19 25 signed waivers extending the period within which taxes for the years in question could be assessed and collected and had given these waivers to his secretary with instructions to file with the Collector of Internal Revenue at Hartford, Connecticut. These waivers, if filed, would have extended the period within which a claim could be filed for the years in question. The special findings of fact of the Court of Claims on this case (No. K-23) stated in part as follows:

"There is nothing in the record of the office of the Collector at Hartford to show that these waivers were ever received by the Collector, and there is no proof that they were transmitted to the Commissioner of Internal Revenue at Washington. Nor is there any proof that the waivers were filed in the Commissioner's Office."

"The attention of the committee is invited to the fact that the bill, S. 2044, as introduced would authorize and direct the Commissioner of Internal Revenue to receive, consider and determine, in accordance with law, but without regard to any statute of limitations, any claim filed not later than six months after the passage of the Act, for the refund of income and profits taxes erroneously collected from the Hartford-Connecticut Trust Company for the years 1919 to

1923, inclusive. While it is admitted that the taxes for the years 1919 and 1920 have been overpaid, it will also be seen that a deficiency exists for the years 1921 and 1922, which is barred from collection. The bill as introduced permits the filing of claims for all years but does not provide for the collection of taxes due for those years.

"It has been the policy of Congress to include in the Revenue Acts limitation provisions by the operation of which after a certain time it is impossible for the Government to assess additional taxes found to be due or for the taxpayer to obtain a refund of taxes overpaid. It frequently happens that a taxpayer finds himself barred by the operation of the statute of limitations from securing a refund of an amount of tax paid in excess of what was due. In such cases, the taxpayer often feels that he is entitled to get back the amount overpaid, notwithstanding the running of the statute of limitations, and bills are often introduced in Congress, seeking relief. The ground for relief asserted is always that the amount of tax was in fact overpaid and that it is unjust for the Government to retain the money. After deliberate consideration, the answer of the Department has invariably been that to grant relief in this type of case would be contrary to the policy of the statute of limitations and would open the door of relief in cases where the statute operated to the prejudice of a particular taxpayer, while leaving the door

closed to the Government in those cases in which the statute operated to the disadvantage of the Government. The position which the Department has taken and which Congress has sanctioned, is that it is sound to have statutes of limitations and that the policy upon which such statutes are based must be adhered to, notwithstanding hardship in a particular case.

"The Treasury Department opposes the enactment of S. 2044 for the reasons indicated above.

"In the event further correspondence relative to this matter becomes necessary, please refer to IT:E:RRR.

Very truly yours,

T. J. Coolidge,  
Acting Secretary.

Honorable Pat Harrison  
Chairman, Committee on Finance  
United States Senate."

Senator George: Senator Lonergan, if you have no objection, I think we will incorporate this letter of April 10, 1935, addressed to you, in the record.

Senator Lonergan: Very well.

Senator George: The reporter will incorporate it in the record and return the original to you.

Senator Lonergan: That is all right.

(The letter referred to is here set forth in full, as follows:)

"LAW OFFICES

HOLDEN, GILL & FLYNN

Hartford, Connecticut

April 10, 1935.

"Honorable Augustine Lonergan

United States Senate

Washington, D. C.

Dear Senator Lonergan:

"I enclose herewith a brief statement of the case of The Hartford-Connecticut Trust Company against the Commissioner of Internal Revenue.

"I have had two or three talks with Mr. Byrne, the President of the bank, and Mr. Shippee, and I admit that we feel a bit chagrined that this Maminski case has gone through ahead of ours, particularly in view of the following facts -

"(1) The Hartford-Connecticut Trust Company had treated discounts as income before it was actually earned, and, in 1925, it appeared that the prior tax had been paid in excess of the amount properly due and that the discounts account should be placed upon an accrual basis, and the Commissioner permitted the taxpayer to file an amended return for the years affected and accepted said returns and audited the accounts of the taxpayer and found that the Company had overpaid its taxes for 1919 and 1920 in the amount of \$47,700.19.

"(2) On December 9, 1924, the plaintiff executed a



waiver covering the calendar year of 1919 and filed it with the Collector of Internal Revenue, extending the period of assessment for one year after the expiration of the statutory period, or to May 14, 1926.

"(3) In response to a letter sent to the taxpayer on January 12, 1925, from the Commissioner of Internal Revenue, the taxpayer replied in part as follows -

"You also state that if we consent to the extension of time for examination by your Department that we should sign and return the enclosed waiver. We note that there is no form of waiver accompanying the letter, but in a similar letter received from your department dated November 22, 1924, there was a form of waiver which was duly signed and returned to your Department on December 9, 1924, agreeing to the extension of time. Therefore, we do not understand why we should receive a second letter.

"If possible, will you kindly inform us if there is anything else that you wish us to do in relation to the matter."

"(4) The Court of Claims found as a matter of fact that on September 8, 1925, the plaintiff, by its Vice-President, executed waivers for the years 1919 and 1920. These waivers were delivered by the plaintiff's Vice-President to

his Secretary with instructions to file them with the Collector of Internal Revenue at Hartford. The following day the Secretary to the Vice-President took the waivers to the office of the Collector of Internal Revenue at Hartford and handed them to the personal secretary to the Collector. It was the practice of that office, when waivers were delivered to it, if they contained numerals designating the case, to put the waivers in an envelope, place the numerals thereon and forward them by mail to the Commissioner of Internal Revenue without a letter of transmittal; but, if the waivers did not contain said numerals, they were forwarded with a letter of transmittal.

"(5) This finding of the Court of Claims may be found on p. 3 of its Special Finding of Facts. Your attention is directed to the fact that the above quotation was not contained in the letter of March 25, 1935, from the Treasury Department to the Honorable Pat Harrison, although in the last paragraph on p. 1 of that letter, there is a quotation very prejudicial to the taxpayer which is found in the same paragraph as the quotation contained in our letter.

"(6) About the time that this controversy arose between the taxpayer and the Bureau of Internal Revenue, the Bureau insisted that certain other waivers which the taxpayer had executed were never filed and could not be found, but because of the persistent demand of the taxpayer's agent and repre-

representative a continued search was maintained and the other waivers which they first claimed were not on file were found in some place to the taxpayer unknown and placed in the files. It was brought out in the testimony before the Court of Claims and found by the Commissioner that these cases were considered by the Bureau as open cases, and, if waivers had not in fact been executed and delivered to the Commissioner, the cases would not have been so treated.

"The only logical conclusion that can be reasonably arrived at from the foregoing facts is that the waivers which the Court found were in fact executed and delivered to the Collector of Internal Revenue in Hartford were sent by that office to the Commissioner of Internal Revenue in Washington and in some way mislaid and lost.

"The letter from the Commissioner under date of January 12th stated that the statutory period -

"will expire presently and in order to avoid the necessity of making an assessment prior to such consideration", etc.

"This letter indicated a desire on the part of the Commissioner to give this matter further consideration, and expressly stated that he could not do so unless the taxpayer waived the statute. The taxpayer wrote as stated above that waivers had been filed and asked if anything more was required.

"The assessment could not have been made (because the period within which an assessment could have been made had expired) - unless the taxpayer and the Commissioner waived the running of the statute of limitations which expired 'presently' as above stated.

"Following the notice of the additional assessment and before the running of the statute of limitations, it is the practice of the Bureau to place those cases which are about to be barred by the statute upon an assessment list prepared by the Commissioner of Internal Revenue, signed by him, and forwarded to the Collector for the district wherein the taxpayer resides for collection. This procedure is mandatory and must take place before the statute has run. It was not done with this case and no reason assigned for the failure to do so. The waiver must have been received and lost in the Commissioner's office.

"This case was never placed upon the assessment list and subsequent to the notice of additional assessment a reexamination was made by the Bureau, the result thereof being reported to the taxpayer on June 4, 1927.

"The government's action in withholding the case from the assessment list could not have been taken unless there was a waiver on file.

Thereafter the Commissioner of Internal Revenue directed its field agent in New Haven, Connecticut, to make a further

examination. The result of this examination was reported to the taxpayer and it was requested to sign an agreement that this was a correct determination of the taxpayer's liability, and on May 13, 1927, the taxpayer and the Commissioner of Internal Revenue entered into an agreement at the suggestion of the Commissioner of Internal Revenue that the net over-assessment for the years above mentioned was \$53,854.59. The report and the signed agreement were forwarded to Washington, and on June 4, 1927, the taxpayer received a copy of the report and a letter from the Bureau of Internal Revenue, Washington, D. C., the original of which was placed on file with the Commissioner of Internal Revenue and is still on file.

"The original returns in this case show pin marks where some papers were attached, and a white slip was pinned to one of the returns, which white slip has the following penciled notation -

"Waiver for The Hartford-Connecticut Trust Company attached to this return."

"No waiver was attached - nor any explanation offered concerning the white slip.

"During the hearing the trial Commissioner ordered the representatives of the Bureau of Internal Revenue to produce the white cards, supposed to contain records of waivers, which was done.

"The white card, which, it was claimed, contained a rec-

ord of waivers filed, did not contain any record whatever of the waivers which were later found; in fact, nothing whatever appears on these cards in reference to the waivers.

"Last year we had a hearing on this claim by a Subcommittee of the Finance Committee consisting of Senators Walcott, Byrd and George, and after our hearing Senators George and Byrd were very sympathetic with our claim, but felt that the matter should be referred to the Treasury Department for another report. This was done and the matter was referred to R. R. Reed, Technical Advisor to the Deputy Commissioner of Internal Revenue. We had a conference with Mr. Reed and he, too, was sympathetic with our claim, but stated that as a matter of policy, no matter what the facts were nor how strong the claim was, the Bureau of Internal Revenue always recommended its rejection. The report was received back by the Sub-Committee shortly before the close of the session of Congress, and, because the time was very short, an unfavorable report was made on it.

"The report from the Treasury Department, dated March 25, 1935, which you handed to me on my last visit to Washington is most unfair. The letter states that for the years 1921 and 1922 additional taxes were found to be due from the taxpayer, but were not assessed and collected due to the bar of the statute of limitations which had operated against

the Government. The taxes that were due in 1921 and 1922 are deducted in full from the claim which we are presenting. The Government will receive its proper credit for these taxes and the Treasury Department knows it.

STATEMENT OF MR. BENEDICT M. HOLDEN,  
HARTFORD, CONNECTICUT.

Senator George: Now, Mr. Holden, you may proceed with your statement. The committee will be glad to hear from you as you wish. You might give a brief history of the bill and the contentions of the claimant in respect to it.

Mr. Holden: Mr. Chairman and gentlemen, the amount involved in the refund is \$41,914.31. That amount is reached by giving the Government credit for all the assessments which it is claimed should have been made and collected in 1919 and 1920, which the Government contends are outlawed, and which we claim are not outlawed, because the Hartford-Connecticut Trust Company signed and filed waivers.

Senator George: For what particular years is this refund claimed?

Mr. Holden: It is for 1919, 1920 and 1922.

Senator George: Three years are involved?

Mr. Holden: Yes. From the amount due in 1919 should be deducted the taxes in 1920 and the subsequent year amounting to \$7,684. After determining these taxes, as set forth in this letter, for all these various years, the Bureau took the position that the net balance due the bank was \$41,914.39 for these years involved, but they could not make a refund because there was no waiver for the years in question on file with the Commissioner of Internal Revenue. There has never



been a statement by the Bureau of Internal Revenue that the bank did not file a waiver, but they took the position that no waiver is in their files for these years.

We tried that case in the Court of Claims. The Commissioner made a full report, setting out all the details, and also found that we executed a waiver in 1919, and that we executed other waivers. The circumstances, if I might state them, were that the Commissioner of Internal Revenue decided that the bank should change its method of bookkeeping from the accrual basis to the cash basis. <sup>At</sup> One time a bank, in discounting a note for \$100, would deduct the amount earned. The maker of the note might anticipate the payment by a month or two, and be entitled to a rebate in the amount of interest, which kept the account open. The Bureau of Internal Revenue decided they should keep their books on a cash basis rather than on an accrual basis.

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They levied an additional assessment against the Hartford-Connecticut Trust Company, which immediately protested it. Thereupon an examiner made an examination of the bank, and as a result of the first report made the bank filed an amended return for all the years involved, and, as we claim, immediately thereafter, and we think the evidence proves it; the secretary of the company executed waivers and delivered those waivers to the office of the Collector of Internal Revenue in Hartford.

At that time it was the practice in that office that claims for refunds, even under rulings of the Circuit Court of Appeals, must be filed with the Collector in the district and transmitted from there to the Bureau of Internal Revenue in Washington. The Supreme Court of the United States, in Justice Taft's time, ruled that the collector was not the agent of the Commissioner to receive waivers, and that waivers must be filed with the Commissioner of Internal Revenue, and the duty devolved upon the taxpayer to see not only that he executed proper waivers, but that they were filed in the proper place. That ruling came out after all this had occurred.

In the trial of the case the president of the bank made an affidavit and also testified that he had personal knowledge of these waivers being executed, and the secretary of the vice-president and the secretary of the bank appeared as a witness to give further oral testimony that she took the two waivers, when they were properly executed, to the office of the Collector of Internal Revenue in Hartford. The chief clerk of the Office of the Collector of Internal Revenue in Hartford stated in the evidence that it was the practice of the office in Hartford to accumulate these documents of that nature and to put them into an envelope addressed to the Commissioner of Internal Revenue in Washington, and that they invariably went without a letter of transmittal, so they

would be received without a letter of transmittal.

Having made that claim and attempted to substantiate it by evidence, and that claim having been met by the Commissioner with a statement that there is no waiver on file, we then come to the interesting part of it. This report of the examiner, <sup>was</sup> made and filed June 4, 1927, which was about three or four years after the statute of limitations, would have automatically closed these cases, unless by proper documents the cases were kept open. We introduced testimony of men employed in the Bureau of Internal Revenue to show the common practice, that when a case is sent to the field involving the expenditure of time and money in behalf of the Government to examine the books of a taxpayer, it is the duty of some one in the Bureau of Internal Revenue to make sure that when all that work has been done it will accomplish a result which will produce something. We claim it was a serious dereliction of duty on the part of some one in the Bureau to have let those cases go to the New Haven office, and it would have been a serious dereliction on the the part of the New Haven office to have had three men working off and on for several years on cases which would bring no result, either to the taxpayer or to the Government.

When they notified us, after that result had been reached, showing a net to the company of some \$41,000-plus, a letter came saying that no refund could be made, because

the waivers were not on file with the Commissioner.

The accountant for the bank went to the Bureau of Internal Revenue and asked the courtesy of examining the files in the cases, in connection with some of the Bureau officials. His testimony is in the record that they found endless confusion and that the two Bureau men found endless confusion in connection with these cases.

The Hartford Trust Company in 1919 merged with the Hartford-Connecticut Trust Company, in the middle of 1919, making the third link the Hartford-Connecticut Trust Company. The Bureau of Internal Revenue had three files for the Hartford-Trust Company, the Connecticut Trust & Safety Deposit Company, and the Hartford-Connecticut Trust Company, and didn't know one from the other.

At one period during the negotiations a letter came to the bank stating that because of the shortness of time, unless it filed a waiver, they would have to make an additional assessment. I assume the Senators are familiar with the law that the Bureau will send what they call a sixty-day letter, and if the statute of limitations is approaching the Commissioner will inform the taxpayer that because of the shortness of time he must make an immediate assessment, making what is called a "jeopardy" assessment.

Now, since the time in which the Government could make an assessment had expired, they wrote that letter, and the

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bank wrote back and said: "We have already filed waivers. What more do you want? We will cooperate and do everything you want us to do." They wrote back a meaningless letter to the company. They didn't say they didn't have any waivers, but they made the claim they could not find the waivers in the files. Our accountant could not find a copy of the letter they wrote themselves, and could not find the first letter from the Hartford-Connecticut Trust Company which enclosed the waiver for 1919.

A man named Mulligan was delegated as the chief searcher for lost papers, and he was allowed ten men as his assistants. Their duty was to search for and find, if possible, lost papers which were important to the proper adjustment of taxes. And aiding in that search our accountant found a waiver, not a waiver which would help us in that case, but a waiver which they claimed had never been filed. They found a letter from the Hartford-Connecticut Trust Company, and they found a second letter from the trust company to the Government.

I produced the chief clerk of that bureau to find out how they handled waivers in those days, and he said they pinned them to these returns. I had a pretty keen feeling that the officers of that bank, knowing them as I did, would not have made the claim that that had been done if it had not been done. I have a personal conviction that Col. Eadon and Mr. McGrath, who is now the chief clerk in the Collector's

office and a very efficient man, would not have testified as they did <sup>in</sup> ~~to~~ mishandling any business. So that when the witnesses testified that the waivers were pinned to the return, I got the chief judge of the Court of Claims to issue an order to get the returns, and the Commissioner told the Court of Claims there were pin marks in those returns and they could not give any reason why those pin marks were there, unless the waiver had been pinned to it. And you will not forget that we did find two waivers.

Then I asked how they kept track of whether there were waivers there or not. He told me they had black and white cards. I got another order from the Court to produce the cards, and I photostated them, and I handed one to the witness and said, "Here are two waivers from the Hartford-Connecticut Trust Company, and there are the cards. Show me the notation on the cards." He examined the cards, and said, "I can't find them." I asked him: "Can you explain it?" He could not do it. That was a condition of confusion. That is the sworn testimony.

Now, there were the pin marks in the returns and the records, indicating there must have been a waiver attached. They admitted the fact that two waivers were found in the file by our men who helped make the search. They further admitted there was no record of the waivers, but they did find in the files some of these cards.

Then there is the other significant fact that, when a case comes to the Bureau and is sent to the field for investigation, the investigator reports his return, and when it has been reviewed the taxpayer is notified of the result, and is given an opportunity to appeal to the Board of Tax Appeals or to accept the result which has been reached by the men in the field.

Before any of that machinery is set up in motion, some one in the Bureau of Internal Revenue is charged with the responsibility in seeing that the papers are technically correct, because they cannot give away the Government's right and, of course, they cannot take advantage of the taxpayer. They have what is known as the Technical Section of the Bureau of Internal Revenue. In those days it was under the supervision of a gentleman named Reid.

I went to the judge again and got an order to compel the production of that report which was submitted to the bank and signed by the president, and I found that the Bureau of Internal Revenue had stamped it "received June 8, 1927; distribution center, June 29, 1927; corporation audit division." Down below blocked off is the word "expedite." Up here in pencil is the notation, "Mr. Reid said O. K. to close." Up here in pencil "closed." I say none of those operations could have taken place in the Bureau of Internal Revenue without this case being in a position so that either

the Government would get the additional tax, if any were due, or the taxpayer would get a refund, if the Treasury had money it was not entitled to keep. That is why we make the appeal to the Senate, having first gone to the Court of Claims.

All the facts and circumstances show the waivers were filed, and the conduct of the Bureau of Internal Revenue shows the case was opened for adjustment, which is plainly within the language of Justice Brandeis when he said that all this could not be just a meaningless form; that the taxpayer and the Government desire that all differences existing between them should be settled, and should be settled in a way so that some one should get the benefit of all the work. Justice Brandeis said:

"The parties cannot have intended to have the amount of the tax ascertained and to leave the taxpayer free to pay it or not."

That would be an extravagant expenditure of government funds. The conduct of the Bureau of Internal Revenue in handling that case and making that intensive audit for three years after the statute of limitations had run, leads to but one conclusion in my mind.

When the Bureau of Internal Revenue sends field agents out to examine a taxpayer's books, they are required under the law, if the examiner is not reasonably sure he can complete it and make his return and have it audited and the re-



sult determined by his superior before the statute of limitations has run, to make a general assessment, or else the examiner gets a waiver right there before he begins. I submit that you Senators have time and time again had the question put up to you by clients: "The revenue agent is here to examining the books, and he demands a waiver, because he will not go through the useless motion, unless something can be accomplished."

When we found these papers were mislaid and could not find them, and made that intensive search and found some of these missing documents, I claimed in the Court of Claims that all the facts and circumstances showed that the waivers had been filed. Then I called attention to this letter which the vice-president and secretary of the bank had written saying they had filed a waiver, and wanted to cooperate in every way, and to please let them know just what they had to do; and the letter back from the Bureau, which didn't say do anything at all, didn't say to file a waiver, but just apologized for having written the previous letter. I said in the Court of Claims that letter in itself, if there was a tax due the United States Government of \$50,000 from the Hartford-Connecticut Trust Company, I sincerely believed any court would have held the bank had waived its right by writing that letter saying they would cooperate in any way. The statute of limitations is a technical law, and is not

looked upon with favor. A man should pay his bills, the Government as well as the individual. I would be very skeptical of the ability of any lawyer to impress upon a court that his client did not intend to toll the statute when he wrote that letter saying he would do anything the Government thought was proper.

Senator Capper: This is a letter from the Treasury Department, in which they say:

"It frequently happens that a taxpayer finds himself barred by the operation of the statute of limitations from securing a refund of an amount of tax paid in excess of what was due. In such cases, the taxpayer often feels that he is entitled to get back the amount overpaid, notwithstanding the running of the statute of limitations, and bills are often introduced in Congress, seeking relief. The ground for relief asserted is always that the amount of tax was in fact overpaid and that it is unjust for the Government to retain the money. After deliberate consideration, the answer of the department has invariably been that to grant relief in this type of case would be contrary to the policy of the statute of limitations and would open the door of relief in cases where the statute operated to the prejudice of a particular taxpayer, while leaving the door

closed to the Government in those cases in which the statute operated to the disadvantage of the Government. The position which the department has taken and which Congress has sanctioned, is that it is sound to have statutes of limitations and that the policy upon which such statutes are based must be adhered to, notwithstanding hardship in a particular case."

What would <sup>be</sup> the reason why this particular claimant is entitled to special consideration that would not be given in a great many other cases where there were claims by reason of the running of the statute of limitations?

Mr. Holden: First, we claim waivers were filed.

Senator George: You see, Senator Capper, if the waivers were, in fact, filed, this claim would not be barred by the statute. So the whole question is really whether the waivers were actually filed. It is the contention of this claimant that it filed these waivers, and that in the confused state of the office at that time they were detached from the papers and not filed in the proper place.

Mr. Holden: That is true; and that the Bureau, in treating this case as it did, must have had knowledge that the taxpayer had waived the statute of limitations. I want to read into the record, so as to save the Senators the time of going through the testimony in the Court of Claims, the testimony

of Mr. T. E. Mulligan, who was employed in the Bureau of Internal Revenue. With your permission, I will read it in.

Senator George: Was he employed here?

MR. HOLDEN: Yes. The case was tried in Washington, and in every instance these men were very reluctant. They did not like to testify against the Government.

"Q In the case where the amended return is filed before the statute of limitations runs, if you wanted waivers you would ask for them, wouldn't you?

"A If we didn't have time to make an assessment on the amended return, after a thorough audit, we would probably ask the taxpayer to file a waiver.

"Q But suppose the only year that was barred at the time of your audit was the year in which you could make an additional assessment.

"A The whole case would go to the field just the same.

46 "Q Yes, but you would ask for a waiver or consent?

"A Or else make an immediate assessment on the audit."

Now, Senators, we got a letter stating the statute was about to run and they must make an immediate assessment. We claim we filed a waiver, and they did not make an immediate assessment. Why they did not I am unable to tell. The statute is mandatory in that respect.

Senator Capper: Who made those statements you just read?

Mr. Holden: T. E. Mulligan.

Senator Capper: Who was he?

Mr. Holden: He was employed in the Bureau of Internal Revenue as a sub-chief in one of the sections here in Washington.

Senator Capper: Is he in the bureau now?

Mr. Holden: I do not know. I just subpoenaed him and brought him over there.

I also call your attention to the testimony of Richard T. McAllister, also employed in the Bureau:

"Q I now hand you taxpayer's return of the Connecticut Trust & Deposit Company for the period January 1, 1919, to July 19, 1919, and ask you to examine this, and first, if you find any indication on this return of a waiver having been filed, and so as to avoid confusion I might call your attention to the fact that a waiver is attached, but I say any indication on the return, stamped notation or otherwise.

"A No, sir.

"Q And yet there is a waiver attached to those papers?

"A The waiver attached is for the Hartford-Connecticut Trust Company.

"Q Well, a waiver is attached?

"A A waiver is attached.

"Q There is no indication on the paper itself that a waiver was attached?

"A No, sir.

"Q After it was sent from the distribution center?

"A I misunderstood your question. I thought you meant on its reception in the Bureau. When it first comes in it is first sent to the District file having that district. Then they look up this white control card. If the return is not in the file he sends it to where the case is for action.

"Q Show, if you can, anything on that waiver which would indicate to any one in the Bureau that the proper record has been made of its reception."

Then over here, the testimony of Mr. McAllister again:

"Q You would expect if there was a waiver filed that it would be recorded on that card?

"A That was the procedure if the waiver was sent in the regular way.

"Q Then show me the record on those cards of a waiver already on file.

"A They do not appear here."

Now then, just a question by the Commissioner:

"Q Do you mean to tell me that the Bureau of

Internal Revenue does not keep a docket or some similar record book to indicate everything that has been done in each particular case?

"A They do not."

Now, Richard T. McAllister was employed in the Bureau. Here is some more of the testimony of Mr. McAllister:

"Q I hand you an original return and papers connected with it and ask you to identify them.

"A The one on top is the July, 1919 fiscal from January 1, 1919 to July 19, 1919 of the Hartford-Connecticut Trust Company.

"Q The other papers in there are all connected with that return?

"A Yes. One is marked 'corrected return'.

"Q I want you to examine them and see if you find on any of those papers an indication of a waiver having been filed.

(Witness examines papers.)

Isn't there an indication of a waiver?

"A I have to look at it all. There is a lot to this.

"Q Look at the top. What does it say?

"A 'Waiver for Hartford-Connecticut Trust Company attached to this return.

"Q Where is it? Is it attached?

"A No, sir.

"Q Will you hand those papers to the Commissioner for his examination?

"A The witness does so.

"By Commissioner Elmore:

"Q The memo is a small sheet of office paper pinned to the return on which is penciled the notation which you read before?

"A Yes, attached to the return."

Senators, what he read before was: "Waiver for Hartford-Connecticut Trust Company attached to this return."

Senator Lonergan: But the waiver was lost?

Mr. Holden: The waiver must have been lost.

Senator Capper: In this report from the Treasury Department I find this statement:

"These waivers, if filed, would have extended the period within which a claim could be filed for the years in question. The special findings of fact of the Court of Claims on this case stated in part as follows:

"There is nothing in the record of the office of the collector at Hartford to show that these waivers were ever received by the collector, and there is no proof that they were transmitted to the Commissioner of Internal Revenue at Washington.



Nor is there any proof that the waivers were filed in the Commissioner's office.'

47 "The attention of the committee is invited to the fact that the Bill, S. 2044, as introduced would authorize and direct the Commissioner of Internal Revenue to receive consider and determine, in accordance with law, but without regard to any statute of limitations, any claim filed not later than six months after the passage of the act, for the refund of income and profits taxes erroneously collected from the Hartford-Connecticut Trust Company for the years 1919 to 1923, inclusive."

What effort was made to call on the Secretary of the Treasury, before he made this report, as to the fact of that waiver being filed?

Mr. Holden: The Secretary of the Treasury?

Senator Capper: Yes. He says there was no evidence of any waiver having been filed. In fact, that was the statement of the Court of Claims. I wondered whether any effort had been made to take the matter up with the Secretary of the Treasury, following the decision of the Court of Claims, and attempt to establish, as you are doing here, that the waivers had been filed.

Mr. Holden: Mr. Myers was then assistant to the Commissioner. They received a letter -- I think Mr. Myers is still in Washington -- stating in substance: "It is a shame,

but there isn't anything this office can do. The waiver is not here."

The Court of Claims found as follows:

"On September 8, 1925, the plaintiff by its vice-president, executed waivers for the years 1919 and 1920. These waivers were delivered by plaintiff's vice-president to his secretary with instructions to file them with the Collector of Internal Revenue at Hartford. The following day the secretary to plaintiff's vice-president took the waivers to the office of the Collector of Internal Revenue at Hartford and handed them to the personal secretary of the collector. It was the practice of that office when waivers were delivered to it, if they contained the numerals designating the case in the Bureau of Internal Revenue at Washington, to put the waivers in an envelope, place the numerals thereon, and forward them by mail to the Commissioner of Internal Revenue without a letter of transmittal; but if the waivers did not contain said numerals, they were forwarded with a letter of transmittal."

Our letters did contain the numerals. Then the Court said:

"There is nothing in the records of the collector at Hartford to show that these waivers were ever re-

ceived by the collector, and there is no proof that they were transmitted to the Commissioner of Internal Revenue at Washington. Nor is there any proof that the waivers were filed in the Commissioner's office." And the Court further said:

"On July 16, 1927 the Commissioner of Internal Revenue wrote the plaintiff in reference to the report of the field agent, set out in the foregoing finding, in which letter he stated:

"Under the provisions of Section 284(b)(1) no refund may be allowed after four years from the time the tax was paid or after five years from the time the return was due, unless before the expiration of these periods, a claim has been filed. It is noted that your claims for refund were filed on March 12, 1927, after the expiration of the periods indicated. Therefore, the allowances for 1919 and 1920 are limited to the amount of the additional taxes assessed in October, 1924, your claims having been filed within four years from the time the additional taxes were paid."

They did pay a refund of three or four hundred dollars, which was a very small portion of the amount claimed. The Court of Claims further said:

"Collectors of internal revenue have no duty to

perform with reference to waivers and they are not authorized by the statute or regulations to receive and file waivers for the Commissioner. The delivery of a waiver to the office of a collector of internal revenue is therefore not a filing of the waiver within the meaning of the statute under consideration."

So, you see, Senator Capper, that in order to prevail in court I would have to ask the judge to draw an inference from an inference. I know what I was up against. You see, there could be an inference that the Collector of Internal Revenue performed his duty. Then, having drawn that inference, we must draw the inference from that that the paper was received in the office to which it had been directed. I could see there was a broken link in the chain. Nevertheless, I felt it my duty to the Congress to exhaust all remedies in court, even though I had to tell my client we would have to draw an inference upon an inference. You can see that right away.

Senator George: Yes.

Senator Capper: What was the date of the opinion of the Court of Claims?

Mr. Holden: May 2, 1932. And might I call your attention to the finding of the Commissioner who heard the testimony? This case was fully tried before the Commissioner. Here is something that he said. The Commissioner found

there was tremendous confusion in the bureau at that time, and said:

"It was the custom in the bureau previous to 1928, when a waiver was received, to attach it to the taxpayer's return, stamping on the return receipt of the waiver. Later the rule was changed and the movements of the return were stamped upon a white card, which was retained in the file, and the waiver was then sent to the proper district file. When this latter system was adopted waivers which were previously attached to returns were not disturbed. No record was found in the bureau, either on the returns or cards, of the filing by plaintiff of waivers for 1919, 1920, and 1921."

48 Yet we show that there was no waiver attached to the return we produced. We claim these waivers were filed and lost by the bureau.

One more thing and I am through. Again I quote from the testimony of Mr. McAllister:

"Q And if the waiver was taken from the return for any reason, there has been no change in the notation attached to the return which I handed you, has there?

"A No change in the note?

"Q Yes.

"A No.

"Q The note still reads that the waiver is attached to the return and you cannot find the waiver; is that correct?

"A If I remember, that is the 1919 return.

"Q But isn't it correct that you cannot find the waiver?

"A What waiver?

"Q I do not know. The waiver that that paper refers to.

"A I do not see it attached to this return.

"Q I am referring to the pencil note attached to the original return which states that a waiver is on file.

"A I do not recognize this at all.

"Q You never saw it?

"A That would not mean anything to me in my efforts to find a waiver."

Then a question by the Commissioner:

"Q Could that notation have gotten on those papers in that return by some means other than by a person employed in the unit?

"A I could not say that."

Then a question by myself?

"Q Well, would you say it would be likely to be that?

"A I could not say."

That means that they just pleaded ignorance, and that was all there was to it.

Senator Capper: It has been two years now since that proceeding in the Court of Claims. Why the delay in bringing it to Congress?

Mr. Holden: It was brought to the last Congress.

Senator George: It was introduced in the last Congress by Senator Walcott; They had a hearing before a subcommittee. I do not think it went further than that.

MR. Holden: The subcommittee did not report. The letter to Senator Lonerger said they did, but they did not.

In a similar matter, in the Kaminski case, Senator Byrnes said on the floor of the Senate:

"This bill arises out of the payment of taxes by H. Kaminski & Company, a partnership; the Kaminski Hardware Company, a partnership; and the Carolina Hardware Company, a corporation. The Treasury Department states that there was an overassessment of taxes. They take the position, however, that the claim was filed too late, and that it is barred by the statute of limitations.

"That is a correct statement, in that the formal claim was filed too late. The taxpayer has shown to the committee that he was in correspondence with the Bureau of Internal Revenue of the Treasury Department, that he was advised from

time to time that the claim for repayment was under consideration and, because he was so advised, he did not make formal claim. He considered that his request for payment was sufficient claim."

Senator McKellar: stated: "But the Treasury Department reports the bill unfavorably."

Senator Byrnes replied: "It reports the bill unfavorably, as the Senator will see if he will read the letter of the Department, solely because of the fact that the claim was filed after the time for filing claims had expired; and the Treasury told the taxpayer it must come and seek special relief because, under the law, they did not have the right to grant it."

That was the position of Mr. Blair at that time.

Senator Lonergan: What is the date of that record?

Mr. Holden: March 29, 1935, page 4849 of the Congressional Record.

Senator Capper: Where did that take place?

Mr. Holden: In the Senate.

Senator George: That was another bill of similar character.

Mr. Holden: Senator McKellar also said: "It is also stated in the report that this case is no different from many, many other cases of a similar kind, so that this would be an open invitation to file many other claims; would it



not?"

Senator Byrnes:replied: "If that were true, I should be disposed to agree with the Senator; but if the Senator will read the statement in the report he will see that this claim is unlike others, in that the taxpayer was continuously corresponding with the department and making a claim informally, as the department says, for a refund of the taxes. Therefore, it is not like the other cases where no claim at all has been made. The taxpayer was misled into believing that he had filed a sufficient claim."

The bill passed. Certainly, we were misled, for we said: "If we have not done enough, tell us what to do." This is not a case of an enterprising lawyer or accountant dug up by them, after auditing the books. It is not a claim in the nature of a raid upon the Treasury. It is a case where the Government readjusted the bookkeeping system of the bank, and the Commissioner of Internal Revenue filed his report stating the correct adjustment of these taxes, without help from us and without our request.

We claim that all through these proceedings we were in constant touch with the bureau, and believe to this day that we filed these waivers. I think the Court of Claims would have been absolutely warranted in finding that waivers had been on file. If I were a judge of the Court of Claims -- perhaps I would not be a good judge, but if I were one --

it seems to me, if the Commissioner of Internal Revenue should pursue a course for three years such as he pursued in this case in the settlement of a tax liability of a citizen, I would assume that governmental agency was acting under the law, and that the results which were reached would benefit some one, either the Government or the taxpayer. I would be very reluctant to believe it was just a meaningless gesture.

Senator Capper: The thing to overcome is this finding of the Court of Claims:

"There is nothing in the records of the officer of the collector at Hartford to show that these waivers were ever received by the collector, and there is no proof that they were transmitted to the Commissioner of Internal Revenue at Washington. Nor is there any proof that the waivers were filed in the Commissioner's office."

It is pretty hard to get around that, it seems to me. That is the finding of the Court of Claims.

Mr. Holden: I wonder if we are not at cross-purposes.

Senator Capper: Evidently, the decision of the Secretary of the Treasury is based upon that.

Senator George: Yes; the decision of the Secretary of the Treasury is based upon that.

Mr. Holden: The Court of Claims found there was no duty on the part of the collector to receive those claims

or to do anything with them, but it was the common practice to file them with the Collector at that time, until the Supreme Court decided it was unlawful to do it. This case was decided in 1932. We took it up with the Bureau of Internal Revenue for a year before we took it to the Court of Claims.

We quite agree there is nothing in the record of the collector in Hartford that will show that he received those waivers, and there was no duty on him to keep such a record; but the collector's chief clerk, Mr. McGrath, testified it was the custom to receive claims for refund, and when they contained the proper numerals they were placed in an envelope and sent to Washington with no letter of transmittal.

That was the finding of the Court of Claims. There must have been a duty on the Commissioner of Internal Revenue to keep a record. I claim that we proved to the Court and established by the evidence that it was the custom to pin the waiver to the original return in those early days. I found the pin marks in the return. I found the slip. I would not say it was dramatic, but I got an order from the Chief Judge of the Court of Claims to produce the original, and the man from the bureau came over, and no one was more surprised than I was when he produced one of the white slips.

Of course, there is no record, Senator. We claim we did file waivers. We did find waivers in the department. I

read the testimony in regard to that. One was pinned to a return. But you cannot find a record of the waiver which they found and produced in bringing in these cards. The fact that the records were not kept by the bureau cannot be charged to the taxpayer.

Senator Lonergan: Do you want to put this photostatic copy in the record?

Mr. Holden: I think I will leave that with you, and these cards.

Senator George: They may be incorporated in the record at this point.)

(The documents referred to are here set forth in full as follows:)

Mr. Holden: There is a case in which the Board of Tax Appeals was reversed by the Circuit Court of Appeals in New York, involving some \$49,000. A claim was a refund was made on the office of the Collector of Internal Revenue, and an attempt was made to get a receipt, but they could not get him to give a receipt. It is common knowledge that if you ask the bureau they will tell you they will not give you a receipt. You may say, "I want to file a claim for refund. Give me a receipt." You will be informed that they do not give a receipt. Maybe it is a wise practice; I don't know.

Senator George: Is there anything else you want to put in the record?

Mr. Holden: I think not.

Senator George: Senator Lonergan, is there anything you would like to put in the record?

Senator Lonergan: No. Mr. Holden has covered the case quite fully.

Senator George: Then that closes the hearing.

(Whereupon, at 4 o'clock p. m., the hearing was concluded.)

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# Court of Claims of the United States

No. K-23

(Filed *AUG 15 1931* )

## HARTFORD-CONNECTICUT TRUST COMPANY v. THE UNITED STATES

### REPORT OF COMMISSIONER

To the honorable the CHIEF JUSTICE AND ASSOCIATE JUDGES OF THE COURT OF CLAIMS OF THE UNITED STATES:

Pursuant to the order of reference in the above-entitled cause, the parties having closed proof, your commissioner reports the facts as follows:

1. Plaintiff, the Hartford-Connecticut Trust Company, is a corporation organized and existing under the banking laws of the State of Connecticut, having its principal place of business in Hartford, Connecticut. By an act of the General Assembly of Connecticut the Hartford Trust Company and the Connecticut Trust and Safe Deposit Company were consolidated, and the plaintiff, as its successor, was authorized to assume all liabilities and take possession of all the assets of said companies.

2. The said Hartford Trust Company was a banking corporation chartered by the General Assembly of Connecticut having its principal place of business in Hartford in said State. The Connecticut Trust and Safe Deposit Company was likewise chartered by the General Assembly of Connecticut and has its principal place of business in Hartford.

3. The Hartford Trust Company and the Connecticut Trust and Safe Deposit Company filed separate income tax returns for the first half of the year 1919, ending July 19th. Plaintiff on May 14, 1920, after consolidation, filed its return covering the period from July 20, 1919, to December 31, 1919, and paid \$9,895.13 as taxes thereon as follows: \$2,473.78 on May 14, 1920, \$2,473.78 on June 15, 1920, \$2,473.78 on September 15, 1920, and \$2,473.79 on December 15, 1920.

4. On or about March 15, 1921, plaintiff filed its tax return for the year ended December 31, 1920, and paid \$64,715.11 taxes thereon as follows: \$16,178.78 on March 15, 1921, \$16,178.78 on July 1, 1921, \$16,178.78 on September 16, 1921, and \$16,178.77 on December 15, 1921.

5. In October, 1924, an additional tax was assessed against plaintiff for the year 1919 in the sum of \$1,590.27, of which \$1,274.97 was paid by it in cash on November 13, 1924, and \$315.30 was abated by the commissioner on February 28, 1925. On October 5, 1927, the commissioner refunded to plaintiff the said sum of \$1,274.97. An additional tax was also assessed against plaintiff for 1920 amounting to \$2,665.36, \$2,248.00 of which plaintiff paid on November 13, 1924, \$417.36 was abated by the commissioner on February 28, 1925, and the said sum of \$2,248.00 was refunded to plaintiff on November 14, 1927.

6. On November 22, 1924, the Bureau of Internal Revenue addressed the following letter to plaintiff:

"An audit of your income-tax return for the period January 1 to July 19, 1919, in connection with an examination of your books of account and records, discloses a deficiency in tax amounting to \$2,861.23, as shown in the attached statement."

The statement attached thereto reads as follows:

"*January 1 to July 19, 1919.*—Deficiency in tax, \$2,861.23.

"This additional tax results from the adjustments shown in the revenue agent's reports dated August 29 and October 15, 1924.

"If you protest against the determination of the deficiency, the bureau desires to proceed in the regular manner to the consideration of any information submitted by you. However, the statutory period within which the commissioner may assess additional taxes for the year 1919 will expire presently, and in order to avoid the necessity of making an assessment prior to such consideration, it is requested that you sign and return to this office the enclosed form of waiver."

7. On December 9, 1924, plaintiff executed a waiver covering the calendar year 1919, which it filed with the Commissioner of Internal Revenue, extending the period of assessment for one year after the expiration of the statutory period, or until May 14, 1926.

8. On January 12, 1925, a letter was written by the office of the Commissioner of Internal Revenue to the plaintiff advising that an examination of its books and records for the period January 1 to July 19, 1919, had disclosed a deficiency of \$7,921.50, as shown in the attached statement, which letter is here quoted:

"The determination of your income-tax liability for the period January 1 to July 19, 1919, pursuant to an examination of your books of account and records, as set forth in office letter dated November 22, 1924, disclosed a deficiency in tax amounting to \$7,921.50 as shown in the attached statement.

"In accordance with the provisions of section 271 of the revenue act of 1924, you are allowed 60 days from the date of this letter within which to file an appeal to the Board of Tax Appeals contesting in whole or in part the correctness of this determination.

"Where a taxpayer has been given an opportunity to appeal to the Board of Tax Appeals and has not done so within the 60 days prescribed and an assessment has been made, or where a taxpayer has appealed and an assessment in accordance with the final decision on such appeal has been made, no claim in abatement in respect of any part of the deficiency will be entertained.

"If you acquiesce in this determination and do not desire to file an appeal, you are requested to sign the enclosed agreement consent-

ing to the assessment of the deficiency and forward it to the Commissioner of Internal Revenue, Washington, D. C., for the attention of IT:CA-2115-6. In the event that you acquiesce in a part of the determination, the agreement should be executed with respect to the items agreed to."

To this letter was attached an agreement, known as Form A, as follows:

"The undersigned taxpayer hereby waives the right of appeal under section 274 (a) of the revenue act of 1924 with respect to the items listed below and consents to the immediate assessment of the deficiency in tax resulting therefrom. These items are included in a deficiency in tax aggregating \$7,921.50 as indicated by letter from the Commissioner of Internal Revenue, Washington, D. C., dated Jan. 12, 1925, bearing the symbols IT:CA-2115-6, or as indicated in the report of the Revenue Agent in Charge at ----- dated -----."

Said letter also had attached thereto the statement referred to above, as follows:

"In re: Hartford-Connecticut Trust Co., Successors to Hartford Trust Co., 750 Main Street, Hartford, Conn.

*"Deficiency in tax*

"January 1 to July 19, 1919, \$7,921.50.

"The overassessment of \$141.39, recommended by the revenue agent in his report dated October 15, 1924, has been changed to an additional tax of \$7,921.50 due to the following adjustments:

Net taxable income reported by agent		\$109,774.34
"No change."		
Invested capital reported by agent		1,284,000.00
Less:		
1913 to 1917 overassessments	\$407.07	
Amount shown by agent	1,994.90	
		1,527.23
		1,285,171.05
Loss:		
Inadmissibles reported by agent	15,200.00	
Inadmissibles reported by office, being overassess- ment in 1917 years on admissible assets	15,201.48	
		.82
Adjusted invested capital		1,285,170.23
Invested capital for 1919-1919 year		710,413.55
SG of invested capital		56,833.68
Exemption 199-399 of \$3,000.00		1,658.33
Excess profits credit		58,491.41
Excess profits tax		10,256.59
Income tax at 10%		7,890.93
Tax assessable		18,147.52
Previously assessed as shown by agent	18,298.22	
Previously assessed as shown by returns		10,226.02
Deficiency in tax		7,921.50

"If you protest against the determination of the deficiency, the bureau desires to proceed in the regular manner to the considera-



tions of any information submitted by you. However, the statutory period within which the commissioner may assess additional taxes for the year 1919 will expire presently, and in order to avoid the necessity of making an assessment prior to such consideration, it is requested that you sign and return to this office the enclosed form of waiver."

Plaintiff replied on January 13th as follows:

"We are in receipt of letter dated January 12, 1925, signed D. H. Blair, commissioner, by J. G. Bright, deputy commissioner, in which you send to us certain agreements consenting to assessment of deficiency and also statement in which you state that the deficiency in tax was \$7,921.50 for the period January 1 to July 19, 1919. You also state that if we consent to the extension of time for examination by your department that we should sign and return the inclosed waiver. We note that there is no form of waiver accompanying the letter, but in a similar letter received from your department dated November 22, 1924, there was a form of waiver which was duly signed and returned to your department on December 9, 1924, agreeing to the extension of time. Therefore, we do not understand why we should receive a second letter.

"If possible, will you kindly inform us if there is anything else that you wish us to do in relation to the matter."

9. On September 8, 1925, waivers for 1919, 1920, and 1921 were executed by plaintiff's vice president, and the latter's secretary personally delivered them to the secretary of the collector of internal revenue in Hartford, Connecticut, at his office. It was the practice of that office when waivers were delivered to it, if they contained the numerals designating the case, to put the waivers in an envelope, place the numerals thereon and forward them by mail to the Commissioner of Internal Revenue without a letter of transmittal; but if the waivers did not contain said numerals, they were forwarded with a letter of transmittal.

Said waivers read as follows:

"SEPT. 8, 1925.

"INCOME AND PROFIT-TAX WAIVER FOR TAX YEAR ENDED PRIOR TO JANUARY 1, 1922.

"In pursuance of the provisions of existing internal revenue laws the Hartford-Connecticut Trust Company, a taxpayer of Hartford, County of Hartford, Connecticut, and the Commissioner of Internal Revenue hereby waive the time prescribed by law for making any assessment of the amount of income, excess-profits, or war-profits taxes due under any return made by or on behalf of said taxpayer for the year (or years) December 31, 1919, under existing revenue acts, or under prior revenue acts.

"This waiver of the time for making any assessment as aforesaid shall remain in effect until December 31, 1926, and shall then expire except that if a notice of a deficiency in tax is sent to said taxpayer by registered mail before said date and (1) no appeal is filed therefrom with the United States Board of Tax Appeals then said date shall be extended sixty days, or (2) if any appeal is filed with said board then said date shall be extended by the number of days between the date of mailing of said notice of deficiency and the date of final decision of said board.

"This waiver supersedes the waiver submitted on December 9, 1921, symbol IT:CA 2115-6, which was submitted in answer department letter dated November 22, 1921."

\* \* \* \* \*

" SEPTEMBER 8, 1925.

"INCOME AND PROFITS TAX WAIVER FOR TAXABLE YEARS ENDED PRIOR TO  
JANUARY 1, 1922

"In pursuance of the provisions of existing internal revenue laws the Hartford-Connecticut Trust Company, a taxpayer of Hartford, County of Hartford, Connecticut, and the Commissioner of Internal Revenue hereby waive the time prescribed by law for making any assessment of the amount of income, excess profits, or war-profits taxes due under any return made by or on behalf of said taxpayer for the year (or years) ended December 31, 1920, and December 31, 1921, under existing revenue acts, or under prior revenue acts.

"This waiver of the time for making any assessment as aforesaid shall remain in effect until December 31, 1926, and shall then expire except that if a notice of a deficiency in tax is sent to said taxpayer by registered mail before said date and (1) no appeal is filed therefrom with the United States Board of Tax Appeals then said date shall be extended sixty days; or (2) if an appeal is filed with said board then said date shall be extended by the number of days between the date of mailing of said notice of deficiency and the date of final decision by said board."

10. Following the action of the commissioner in making additional assessments against plaintiff for the years 1919 and 1920, plaintiff's accountant made an audit of its books and accounts. This audit revealed that plaintiff had been treating discounts as earned income before they were earned, and had overpaid its taxes for some years and underpaid them for others. Said accountant advised a change in its system whereby discounts would be placed on an accrual basis. He then consulted with representatives of the commissioner in Washington, and as a result plaintiff filed amended returns for 1919, 1920, and 1921, which were accepted by the commissioner in March, 1927.

11. Said amended returns for 1919, 1920, and 1921 were filed by plaintiff on or about March 15, 1927, to which were attached claims for refund of its 1919 and 1920 taxes, amounting to \$11,914.39, which claims were rejected by the commissioner. Thereafter defendant's field agent in New Haven, Connecticut, was directed to make, and made an examination of plaintiff's books. The findings of said agent, which were approved by plaintiff on May 13, 1927, are as follows:

Year	Additional Tax	Overassessment
July 19, 1919 to December 31, 1919		\$11,093.35
1920		40,802.47
1921	\$4,960.18	
1922	825.62	
1923		7,684.57
	5,785.80	59,640.39
Net overassessment		53,854.59

This report was transmitted to plaintiff by said agent on June 4, 1927. On July 16, 1927, the commissioner wrote plaintiff in reference to this report, in which he stated that the disallowance therein was due to the fact that plaintiff's claims for refund had been filed after the statute of limitations had expired. Plaintiff's accountant then visited the Bureau of Internal Revenue at Washington for the purpose of making a search for the waivers filed by plaintiff for the years 1919, 1920, and 1921. A special searcher in that bureau located the waiver for 1919, filed on December 9, 1924, but the waiver for 1920 and 1921 was not found on file there.

It was the custom in the bureau previous to 1928, when a waiver was received, to attach it to the taxpayer's return, stamping on the return receipt of the waiver. Later the rule was changed and the movements of the return were stamped on a white card, which was retained in the file, and the waiver was then sent to the proper district file. When this latter system was adopted waivers which were previously attached to returns were not disturbed. No record was found in the bureau, either on the returns or cards, of the filing by plaintiff of waivers for 1919, 1920, and 1921.

12. Should plaintiff be entitled to recover, it should receive \$41,914.39.

Respectfully submitted,

JOHN A. ELMORE, *Commissioner.*

TREASURY DEPARTMENT  
WASHINGTON

Mar 25 1935

My dear Mr. Chairman:

I have your letter of February 27, 1935, transmitting to the Treasury Department for a report, copy of S. 2044 (74th Congress, 1st Session), a bill for the relief of the Hartford-Connecticut Trust Company, a corporation organized and existing under the banking laws of the State of Connecticut.

The bill would authorize and direct the Commissioner of Internal Revenue to receive, consider, and determine in accordance with law, but without regard to any statute of limitations, any claim filed within six months from the passage of the Act for the refund of income and profits taxes erroneously collected for the years 1919 to 1923, inclusive.

Returns were filed by this taxpayer for the years in question in the usual manner. Upon final determination by the Commissioner of Internal Revenue of the tax liability for the years involved, it was found that the taxes for the period July 20 to December 31, 1919 and for the years 1920 and 1923 had been overpaid. Claims for refund were filed by the taxpayer on March 12, 1927, after the expiration of the statutory period within which the full amount of the over-assessment for the years 1919 and 1920 could be allowed. The total amount of the overpayment for the year 1923 was refunded on the basis of the claim which was timely filed for that year. For the years 1921 and 1922 additional taxes were found to be due but these were not assessed and collected due to the bar of the statute of limitations which had operated against the Government.

The taxpayer instituted suit in the United States Court of Claims for the recovery of the taxes overpaid for the period July 20, 1919 to December 31, 1919, and for the year 1920. An officer of the corporation contended that he had on September 8, 1925 signed waivers extending the period within which taxes for the years in question could be assessed and collected and had given these waivers to his secretary with instructions to file with the Collector of Internal Revenue at Hartford, Connecticut. These waivers, if filed, would have extended the period within which a claim could be filed for the years in question. The special findings of fact of the Court of Claims on this case (No. K-23) stated in part as follows:

"There is nothing in the record of the office of the Collector at Hartford to show that these waivers were ever received by the Collector, and there is no proof that they were transmitted to the Commissioner of Internal Revenue at Washington. Nor is there any proof that the waivers were filed in the Commissioner's Office."

The attention of the committee is invited to the fact that the bill, S. 2044, as introduced would authorize and direct the Commissioner of Internal Revenue to receive, consider and determine, in accordance with law, but without regard to any statute of limitations, any claim filed not later than six months after the passage of the Act, for the refund of income and profits

Honorable Pat Harrison  
In re: S. 2044 (Hartford-Connecticut Trust Co.)

taxes erroneously collected from the Hartford-Connecticut Trust Company for the years 1919 to 1923, inclusive. While it is admitted that the taxes for the years 1919 and 1920 have been overpaid, it will also be seen that a deficiency exists for the years 1921 and 1922, which is barred from collection. The bill as introduced permits the filing of claims for all years but does not provide for the collection of taxes due for those years.

It has been the policy of Congress to include in the Revenue Acts limitation provisions by the operation of which after a certain time it is impossible for the Government to assess additional taxes found to be due or for the taxpayer to obtain a refund of taxes overpaid. It frequently happens that a taxpayer finds himself barred by the operation of the statute of limitations from securing a refund of an amount of tax paid in excess of what was due. In such cases, the taxpayer often feels that he is entitled to get back the amount overpaid, notwithstanding the running of the statute of limitations, and bills are often introduced in Congress, seeking relief. The ground for relief asserted is always that the amount of tax was in fact overpaid and that it is unjust for the Government to retain the money. After deliberate consideration, the answer of the Department has invariably been that to grant relief in this type of case would be contrary to the policy of the statute of limitations and would open the door of relief in cases where the statute operated to the prejudice of a particular taxpayer, while leaving the door closed to the Government in those cases in which the statute operated to the disadvantage of the Government. The position which the Department has taken and which Congress has sanctioned, is that it is sound to have statutes of limitations and that the policy upon which such statutes are based must be adhered to, notwithstanding hardship in a particular case.

The Treasury Department opposes the enactment of S. 2044 for the reasons indicated above.

In the event further correspondence relative to this matter becomes necessary, please refer to IT:E:RRR.

Very truly yours,

T. J. Coblidge  
Acting Secretary.

Honorable Pat Harrison  
Chairman, Committee on Finance  
United States Senate.

LAW OFFICES  
**Holden, Gill & Flynn**  
750 MAIN STREET  
HARTFORD, CONNECTICUT

Benedict M. Holden  
Thomas D. Gill  
Daniel C. Flynn  
Benedict M. Holden, Jr.

April 10, 1935

Honorable Augustine Lonergan  
United States Senate  
Washington, D. C.

Dear Senator Lonergan:

I enclose herewith a brief statement of the case of The Hartford-Connecticut Trust Company against the Commissioner of Internal Revenue.

I have had two or three talks with Mr. Byrne, the President of the bank, and Mr. Shippee, and I admit that we feel a bit chagrined that this Kaminski case has gone through ahead of ours, particularly in view of the following facts -

(1) The Hartford-Connecticut Trust Company had treated discounts as income before it was actually earned, and, in 1925, it appeared that the prior tax had been paid in excess of the amount properly due and that the discounts account should be placed upon an accrual basis, and the Commissioner permitted the taxpayer to file an amended return for the years affected and accepted said returns and audited the accounts of the taxpayer and found that the Company had overpaid its taxes for 1919 and 1920 in the amount of \$47,700.19.

(2) On December 9, 1924, the plaintiff executed a waiver covering the calendar year of 1919 and filed it with the Collector of Internal Revenue, extending the period of assessment for one year after the expiration of the statutory period, or to May 14, 1926.

(3) In response to a letter sent to the taxpayer on January 12, 1925, from the Commissioner of Internal Revenue, the taxpayer replied in part as follows -

"You also state that if we consent to the extension of time for examination by your Department that we should sign and return the enclosed waiver. We note that there is no form of waiver accompanying the letter, but in a similar letter received from your Department dated November 22, 1924, there

was a form of waiver which was duly signed and returned to your Department on December 9, 1924, agreeing to the extension of time. Therefore, we do not understand why we should receive a second letter.

"If possible, will you kindly inform us if there is anything else that you wish us to do in relation to the matter."

(4) The Court of Claims found as a matter of fact that on September 8, 1925, the plaintiff, by its Vice-President, executed waivers for the years 1919 and 1920. These waivers were delivered by the plaintiff's Vice-President to his Secretary with instructions to file them with the Collector of Internal Revenue at Hartford. The following day the Secretary to the Vice-President took the waivers to the office of the Collector of Internal Revenue at Hartford and handed them to the personal secretary to the Collector. It was the practice of that office, when waivers were delivered to it, if they contained numerals designating the case, to put the waivers in an envelope, place the numerals thereon and forward them by mail to the Commissioner of Internal Revenue without a letter of transmittal; but, if the waivers did not contain said numerals, they were forwarded with a letter of transmittal.

(5) This finding of the Court of Claims may be found on p. 3 of its Special Finding of Facts. Your attention is directed to the fact that the above quotation was not contained in the letter of March 25, 1935, from the Treasury Department to the Honorable Pat Harrison, although in the last paragraph on p. 1 of that letter, there is a quotation very prejudicial to the taxpayer which is found in the same paragraph as the quotation contained in our letter.

(6) About the time that this controversy arose between the taxpayer and the Bureau of Internal Revenue, the Bureau insisted that certain other waivers which the taxpayer had executed were never filed and could not be found, but because of the persistent demand of the taxpayer's agent and representative a continued search was maintained and the other waivers which they first claimed were not on the file were found in some place to the taxpayer unknown and placed in the files. It was brought out in the testimony before the Court of Claims and found by the Commissioner that these cases were considered by the Bureau as open cases, and, if waivers had not in fact been executed and delivered to the Commissioner, the cases would not have been so treated.

The only logical conclusion that can be reasonably arrived at from the foregoing facts is that the waivers which the Court found were in fact executed and delivered to the Collector

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of Internal Revenue in Hartford were sent by that office to the Commissioner of Internal Revenue in Washington and in some way mislaid and lost.

The letter from the Commissioner under date of January 12th stated that the statutory period -

"will expire presently and in order to avoid the necessity of making an assessment prior to such consideration", etc.

This letter indicated a desire on the part of the Commissioner to give this matter further consideration, and expressly stated that he could not do so unless the taxpayer waived the statute. The taxpayer wrote as stated above that waivers had been filed and asked if anything more was required.

The assessment could not have been made (because the period within which an assessment could have been made had expired) - unless the taxpayer and the Commissioner waived the running of the statute of limitations which expired "presently" as above stated.

Following the notice of the additional assessment and before the running of the statute of limitations, it is the practice of the Bureau to place those cases which are about to be barred by the statute upon an assessment list prepared by the Commissioner of Internal Revenue, signed by him, and forwarded to the Collector for the district wherein the taxpayer resides for collection. This procedure is mandatory and must take place before the statute has run. It was not done with this case and no reason assigned for the failure to do so. The waiver must have been received and lost in the Commissioner's office.

This case was never placed upon the assessment list and subsequent to the notice of additional assessment a re-examination was made by the Bureau, the result thereof being reported to the taxpayer on June 4, 1927.

The government's action in withholding the case from the assessment list could not have been taken unless there was a waiver on file.

Thereafter the Commissioner of Internal Revenue directed its field agent in New Haven, Connecticut, to make a further examination. The result of this examination was reported to the taxpayer and it was requested to sign an agreement that this was a correct determination of the taxpayer's liability, and on May 13, 1927, the taxpayer and the Commissioner of Internal Revenue entered into an agreement at the suggestion of the Commissioner of Internal Revenue that the net overassessment for the years above mentioned was \$53,854.59. The report and the signed agreement were forwarded to Washington, and on June 4, 1927, the taxpayer received a copy of the report and a letter from the



4/10/35

Bureau of Internal Revenue, Washington, D. C., the original of which was placed on file with the Commissioner of Internal Revenue and is still on file.

The original returns in this case show pin marks where some papers were attached, and a white slip was pinned to one of the returns, which white slip has the following penciled notation -

"Waiver for The Hartford-Connecticut Trust Company attached to this return."

No waiver was attached - nor any explanation offered concerning the white slip.

During the hearing the trial Commissioner ordered the representatives of the Bureau of Internal Revenue to produce the white cards, supposed to contain records of waivers, which was done.

The white card, which, it was claimed, contained a record of waivers filed, did not contain any record whatever of the waivers which were later found; in fact, nothing whatever appears on these cards in reference to the waivers.

Last year we had a hearing on this claim by a Sub-Committee of the Finance Committee consisting of Senators Walcott, Byrd and George, and after our hearing Senators George and Byrd were very sympathetic with our claim, but felt that the matter should be referred to the Treasury Department for another report. This was done and the matter was referred to R. R. Reed, Technical Advisor to the Deputy Commissioner of Internal Revenue. We had a conference with Mr. Reed and he, too, was sympathetic with our claim, but stated that as a matter of policy, no matter what the facts were nor how strong the claim was, the Bureau of Internal Revenue always recommended its rejection. The report was received back by the Sub-Committee shortly before the close of the session of Congress, and, because the time was very short, an unfavorable report was made on it.

The report from the Treasury Department, dated March 25, 1935, which you handed to me on my last visit to Washington is most unfair. The letter states that for the years 1921 and 1922 additional taxes were found to be due from the taxpayer, but were not assessed and collected due to the bar of the statute of limitations which had operated against the Government. The taxes that were due in 1921 and 1922 are deducted in full from the claim which we are presenting. The Government will receive its proper credit for these taxes and the Treasury Department knows it.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 1935

Mr. LONGRAN introduced the following bill; which was read twice and referred to the Committee on Finance

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**A BILL**

For the refund of income and profits taxes erroneously collected.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That the Commissioner of Internal Revenue is hereby  
4 authorized and directed to receive, consider, and determine,  
5 in accordance with law, but without regard to any statute  
6 of limitations, any claim filed not later than six months  
7 after the passage of this Act by the Hartford-Connecticut  
8 Trust Company, a corporation organized and existing under  
9 the banking laws of the State of Connecticut, having its  
10 principal place of business in Hartford, Connecticut, for  
11 the refund of income and profits taxes erroneously collected  
12 from the said Hartford-Connecticut Trust Company in 1919,  
13 1920, 1921, 1922, and 1923.

74<sup>TH</sup> CONGRESS }  
1<sup>ST</sup> SESSION

S. 2044

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## A BILL

For the refund of income and profits taxes  
erroneously collected.

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By Mr. LONERGAN

FEBRUARY 26, 1935

Read twice and referred to the Committee on Finance

C O P Y

TRASURY DEPARTMENT

WASHINGTON

Office of :  
Commissioner of Internal Revenue  
IT:CA:2111-5

July 16, 1927

The Hartford Connecticut Trust Company  
750 Main Street  
Hartford, Connecticut

Sirs:

The determination of your income and profits tax liability for the period July 19 to December 31, 1919, and the calendar years 1920 to 1923 inclusive, in connections with the report dated June 4, 1927 submitted by the Internal Revenue Agent in Charge, New Haven, Connecticut, discloses overassessments aggregating \$11,940.20 as follows :

Year	Overassessment
Period July 19 to December 31, 1919	\$ 1,590.27
1920	2,665.36
1923	<u>7,684.57</u>
Total	\$ 11,940.20

  

Period July 19 to December 31, 1919	
Net loss reported on the amended return	\$ 72,822.02
Add:	
(1) Additional depreciation allowed	<u>390.00</u>
Net Loss amended	\$ 73,212.02

Explanations of adjustments to  
Net Loss

(1) An examination of your books of account and records discloses that the net loss reported on the amended return is correct with the exception of the deduction claimed for depreciation which has been adjusted.

The Hartford Connecticut Trust Company # 2

Computation of Tax

Net Loss	\$ 73,812.02
Tax liability	none
Tax assessed, Account #404111	9,895.13
Additional tax assessed, October 1924, page 1, line 2	<u>1,590.27</u>
Total tax assessed	\$ 11,485.40
Tax liability	<u>none</u>
Overassessment	\$ 11,485.40
Less:	
Refund previously allowed	<u>422.05</u>
Net overassessment	\$ 11,063.35
Overassessment outlawed	<u>9,473.08</u>
Overassessment allowable	\$ 1,590.27

1 9 2 0

Net income reported on amended return	\$250,456.92
Deduct:	
(1) Additional 1919 loss	<u>390.50</u>
Net income adjusted	\$250,066.42

Explanations of Adjustments  
to Net Income

(1) The additional loss for 1919 has been applied against the net income under the provisions of Section 204, Regulations 45.

Invested capital	
Capital stock	\$ 1,250,000.00
Surplus	1,250,000.00
Undivided profits	599,398.77
Total	<u>3,099,398.77</u>
Add:	
(1) Assets restored	51,728.31
(2) Securities restored	14,433.75
(3) Overpayment of tax	<u>15,062.48</u>
Total	\$ 3,180,623.31

The Hartford Connecticut Trust Company # 3

Bought forward		\$ 3,180,623.31
Deduct:		
(4) Federal income tax \$29,411.47 prorated	\$ 12,393.99	
(5) Bank stock tax	41,414.83	
(6) Unearned discount	197,781.40	
(7) Adjustment for inadmissable assets	<u>28,821.69</u>	
		<u>280,411.91</u>
Invested capital adjusted		\$ 2,900,211.40

Explanation of Adjustments to  
Invested Capital

(1), (2), (3), and (6) adjustments have been made for corrections in the income and tax liability disclosed in the audit of the returns for prior years, since it is apparent that surplus as at January 1, 1920 has been affected by this change.

(4) Adjustment has been made for the Federal income tax for the preceding year under the provisions of Article 845, Regulations 45.

(5) Invested capital has been adjusted for inadmissable assets under the provisions of Article 852, Regulations 45.

Computation of Tax

Net Income		\$ 250,066.42
Invested capital		2,900,211.40
Excess profits credit		235,016.91

Brackets	Income	Credit	Balance	Rate	Tax
20% of Invested capital	\$ 250,066.42	\$ 235,016.91	\$ 15,049.51	20%	\$ 3,009.90

Total profits tax \$ 3,009.90

The Hartford, Connecticut Trust Company - #4

Brought forward		\$ 3,009.90
Net Income	\$ 250,066.42	
Less:		
Interest on U.S. Obligations not exempt	\$15,583.64	
Profits tax	3,009.90	
Exemption	<u>2,000.00</u>	
		<u>20,593.54</u>
Balance subject to tax at 10%	229,472.88	
Amount of tax at 10%		<u>22,947.29</u>
Total tax liability		25,957.19
Original tax assessed	64,715.11	
Additional tax assessed	<u>2,665.36</u>	
		<u>67,380.47</u>
Overassessment		41,423.28
Less:		
Refund previously allowed		<u>530.81</u>
Net overassessment		40,892.47
Overassessment outlawed		<u>38,227.11</u>
Overassessment allowable		2,665.36

1921 and 1922

The revenue agent's reports discloses a deficiency for the years 1921 and 1922. However, since the period in which additional tax for these years may be assessed has expired, no assessment may be made.

1923

Net income reported on the amended return	\$ 275,018.96
Deduct:	
(1) Capital items restored overstated	<u>455.00</u>
Net income adjusted	\$ 274,563.96

The Hartford Connecticut Trust Company - #5

Explanation of Adjustments to Net Income

(1) An examination of your books of account and records discloses that the amount of capital items restored to income on the amended return is excessive and adjustment has been made accordingly.

Computation of Tax

Net Income taxable at 12-1.2%		\$ 274,563.96
Amount of tax at 12-1/a%		34,320.50
Tax assessed	\$ 41,063.02	
Additional tax assessed	<u>942.05</u>	
		<u>42,005.07</u>
Overassessment		\$ 7,684.57
Overassessment		

The overassessments shown herein will be made the subject of certificates of overassessment which will reach you in due course through the office of the Collector of Internal Revenue for your district, and will be applied by that official in accordance with Section 284 of the Revenue Act of 1926.

Your claims for refund will be adjusted as follows:

Year Period	Amount claimed (1)	Amount allowed (2)	Amount rejected (3)
July 19 to Dec. 31, 1919	\$ 11,063.35	\$ 1,590.27	\$ 9,473.08
1920	41,168.61	2,665.36	38,503.25
1923	<u>7,627.70</u>	7,684.57	none

Under the provisions of Section 284 (b) (1) no refund may be allowed after four years from the time the tax was paid or after five years from the time the return was due, unless before the expiration of these periods a claim has been filed. It is noted that your claims for refund were filed on March 12, 1927, after the expiration of the periods indicated. Therefore, the allowances for 1919 and 1920 are limited to the amount of additional taxes assessed in October 1924, your claims having been filed within four years from the time the additional taxes were paid.

Respectfully,

U.R. Nash

Assistant to the Commissioner.

By -

P O R T E R L I N D E R

Acting Head of Division



0 0 P Y

TRMASURY DEPARTMENT

WASHINGTON

Office of ;  
Commissioner of Internal Revenue

July 16, 1927

IT:CA;2111-5

The Hartford Connecticut Trust Company  
750 Main Street  
Hartford, Connecticut

Sirs:

The determination of your income and profits tax liability for the period July 19 to December 31, 1919, and the calendar years 1920 to 1923 inclusive, in connections with the report dated June 4, 1927 submitted by the Internal Revenue Agent in Charge, New Haven, Connecticut, discloses overassessments aggregating \$11,940.20 as follows:

Year	Overassessment
Period July 19 to December 31, 1919	\$ 1,590.27
1920	2,665.36
1923	<u>7,684.57</u>
Total	\$ 11,940.20

Period July 19 to December 31, 1919

Net loss reported on the amended return	\$ 72,822.02
Add:	
(1) Additional depreciation allowed	<u>590.00</u>
Net Loss amended	\$ 73,412.02

Explanations of adjustments to  
Net Loss

(1) An examination of your books of account and records discloses that the net loss reported on the amended return is correct with the exception of the deduction claimed for depreciation which has been adjusted.

The Hartford Connecticut Trust Company # 2

Computation of Tax

Net Loss	\$ 75,212.08
Tax liability	none
Tax assessed, Account #404111	9,895.15
Additional tax assessed, October 1924, page 1, line 2	<u>1,590.27</u>
Total tax assessed	\$ 11,485.40
Tax liability	<u>none</u>
Overassessment	\$ 11,485.40
Less:	
Refund previously allowed	<u>422.05</u>
Net overassessment	\$ 11,063.35
Overassessment outlawed	<u>9,473.08</u>
Overassessment allowable	\$ 1,590.27

1 9 2 0

Net income reported on amended return	\$250,456.92
Deduct:	
(1) Additional 1919 loss	<u>590.50</u>
Net income adjusted	\$250,066.42

Explanations of Adjustments  
to Net Income

(1) The additional loss for 1919 has been applied against the net income under the provisions of Section 204, Regulations 45.

	Invested capital	
Capital stock		\$ 1,250,000.00
Surplus		1,250,000.00
Undivided profits		592,322.77
Total		<u>3,092,322.77</u>
Add:		
(1) Assets restored		51,722.51
(2) Securities restored		14,455.75
(3) Overpayment of tax		<u>15,062.42</u>
Total		\$ 3,180,623.51

The Hartford Connecticut Trust Company # 5

Brought forward

\$ 3,180,623.51

Deduct:

(4)	Federal income tax \$29,411.47 prorated	\$ 12,393.99
(5)	Bank stock tax	41,414.83
(6)	Unearned discount	197,781.40
(7)	Adjustment for inadmissable assets	<u>28,821.69</u>

290,411.91

Invested capital adjusted

\$ 2,900,211.40

Explanation of Adjustments to  
Invested Capital

(1), (2), (3), and (6) adjustments have been made for corrections in the income and tax liability disclosed in the audit of the returns for prior years, since it is apparent that surplus as at January 1, 1920 has been affected by this change.

(4) Adjustment has been made for the Federal income tax for the preceding year under the provisions of Article 845, Regulations 45.

(5) Invested capital has been adjusted for inadmissable assets under the provisions of Article 852, Regulations 45.

Computation of Tax

Net Income					\$ 250,066.42
Invested capital					2,900,211.40
Excess profits credit					235,016.91
Brackets	Income	Credit	Balance	Rate	Tax
20% of Invested capital	\$ 250,066.42	\$ 235,016.91	\$ 15,049.51	20%	\$ 3,009.90
Total profits tax					\$ 3,009.90

The Hartford, Connecticut Trust Company - #4

Brought forward		\$ 3,009.90
Net Income	\$ 250,066.42	
Less:		
Interest on U. S. Obligations not exempt	\$15,583.64	
Profits tax	3,009.90	
Exemption	<u>2,000.00</u>	
		<u>20,593.54</u>
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Amount of tax at 10%		<u>22,947.29</u>
Total tax liability		25,957.19
Original tax assessed	64,715.11	
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Overassessment		41,423.28
Less:		
Refund previously allowed		<u>530.81</u>
Net overassessment		40,892.47
Overassessment outlawed		<u>38,237.11</u>
Overassessment allowable		2,655.36

1921 and 1922

The revenue agent's reports discloses a deficiency for the years 1921 and 1922. However, since the period in which additional tax for these years may be assessed has expired, no assessment may be made.

1923

Net income reported on the amended return		\$ 275,018.96
Deduct:		
(1) Capital items restored overstated		<u>455.00</u>
Net income adjusted		\$ 274,563.96

The Hartford Connecticut Trust Company - #5

Explanation of Adjustments to Net Income

(1) An examination of your books of account and records discloses that the amount of capital items restored to income on the amended return is excessive and adjustment has been made accordingly.

Computation of Tax

Net Income taxable at 12-1.2%		\$ 274,563.96
Amount of tax at 12-1/2%		34,320.50
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		<u>42,005.07</u>
Overassessment		\$ 7,684.57
Overassessment		

The overassessments shown herein will be made the subject of certificates of overassessment which will reach you in due course through the office of the Collector of Internal Revenue for your district, and will be applied by that official in accordance with Section 284 of the Revenue Act of 1926.

Your claims for refund will be adjusted as follows:

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1923	7,627.70	7,684.57	none

Under the provisions of Section 284 (b) (1) no refund may be allowed after four years from the time the tax was paid or after five years from the time the return was due, unless before the expiration of these periods a claim has been filed. It is noted that your claims for refund were filed on March 12, 1927, after the expiration of the periods indicated. Therefore, the allowances for 1919 and 1920 are limited to the amount of additional taxes assessed in October 1924, your claims having been filed within four years from the time the additional taxes were paid.

Respectfully,

U. R. Nash

Assistant to the Commissioner.

By -

P O R T E R L I N D E R

Acting Head of Division